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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/926,598

01/17/2002

Anil Bakaya

01212

6678

7590 12/24/2008
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EXAMINER

WEISBERGER, RICHARD C

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

12/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/926,598	Applicant(s) BAKAYA ET AL.	
	Examiner Richard C. Weisberger	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Election/Restrictions

Claim 8 is generic to the following disclosed patentably distinct species:

- i)
Dividend yield.
- (ii)
NTA/Price.
- (iii)
P/E.
- (iv)
P/EBITDAPS.
- (v)
P/EVAPS.
- (vi)
Discount to Historical High or Premium to Historical Low.
- (vii)
Gearing level.
- (viii)
Discount/Premium to Brokers' Recommended Buy/Sell Price.
- (ix)
Price to sales per asset or security.
- (x)
Market capitalisation.
- (xi)
Stocks which are market leaders or have a position of market dominance or high market share in their respective industry/principal market.
- (xii) Stocks which had return on shareholders' equity greater than amount say 15% per annum or 25% per annum in last/X financial year or financial quarter.
- (xiii) Stocks which have high quality credit rating from rating agencies such as Standard & Poor's, Moody's, other rating agencies etc.
- (xiv)
Identify stocks as per pre-selected categories of credit ratings.
- (xv) Stocks which have low or high (on a relative basis) P/CFPS where CFPS is per share free cash flow defined by earnings plus depreciation minus capital spending minus dividends.
- (xvi)
Stocks which have low volatility/high volatility.
- (xvii) Stocks where top executives or top 20 shareholders have significant shareholding in the company.
- (xviii) Stocks which are at a premium/discount to industry group or an overall market based on various criteria.
- (xix)
Stocks which have high/low gross margins.

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(xx) Stocks which have a debt level less/more than industry benchmark or S&P 500 or any other appropriate benchmarks.

(xxi)

Stocks which have a good/erratic track record of profitability.

(xxii) Stocks where inventories are declining/increasing.

(xxiii) Stocks where major new products/services have been launched or where new management is in place.

(xxiv) Stocks where insiders are selling more than average or where insiders are buying more than average. Identify stocks where institutional sponsors are increasing/decreasing.

(xxv) Stocks where there is growth/decline in physical volumes of sales or production or inventories.

(xxvi) Stocks where profit margins are rising (buy opportunity/signal/tip) or falling (sell opportunity/signal/tip), stocks where return on capital employed is higher/lower than an industry benchmark and stocks where earnings/revenue is higher/lower than an industry benchmark.

(xxvii) Stocks which have a higher/lower than benchmark/average growth in sales/profits/physical volumes/inventories.

(xxviii) Stockmarkets of countries where economic conditions are better or worse than before. For inter-stockmarket comparisons volume indicator in value or dollar terms may be used for computation of volume index.

(xxix) Stocks which have a low cost structure defined by operating cost per unit produced or by other criteria.

(xxx) Stocks which have higher than average growth rate in earnings per share (EPS), net tangible asset backing per share (NTA), gross cash flow per share (GCF), dividends per share (DPS).

(xxxi) Among certain sectors like bank stocks certain specific criteria may be created eg. Total Income/Average Assets, Operating Costs/Average Assets, Bad Debt Charge/Average Assets. These criteria may be stated as higher or lower relative to a benchmark.

(xxxii) Stocks of distressed firms with negative earnings or negative book values.

(xxxiii) Make international comparisons of relativities as per various criteria spelt out and as per criteria which may be added/introduced later.

(xxxiv) Other criteria for value selection like Benjamin Graham's criteria or 200-day moving average comparisons or any other criteria of selection may be introduced in the program.

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. The species are independent or distinct because as disclosed the different species have mutually exclusive characteristics for each identified species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious

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variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C. Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571 272 6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard C Weisberger/
Primary Examiner, Art Unit 3693

Richard C Weisberger
Primary Examiner
Art Unit 3693